

**State Department of Health
Budget No. 301
Senate Bill No. 2004; House Bill No. 1024**

	FTE Positions	General Fund	Other Funds	Total
2017-19 legislative appropriation	364.00	\$43,474,460	\$158,019,958	\$201,494,418
2015-17 legislative appropriation	365.00	48,871,568	144,420,964	193,292,532
2017-19 appropriation increase (decrease) to 2015-17 appropriation	(1.00)	(\$5,397,108)	\$13,598,994	\$8,201,886

¹Includes a deficiency appropriation of \$250,000 from the strategic investment and improvements fund for additional costs related to legal actions with the federal Environmental Protection Agency.

Item Description

FTE changes - The Legislative Assembly approved 364 FTE positions for the State Department of Health for the 2017-19 biennium, a decrease of 1 FTE position from the 2015-17 biennium. The Legislative Assembly removed 1 FTE electronics technician II position from the Air Quality Division of the Environmental Health Section, 1 FTE environmental scientist II position from the Water Quality Division of the Environmental Health Section, and 6 FTE undesignated positions agencywide. The Legislative Assembly also added 1 FTE position for tobacco prevention and control and 6 FTE positions to establish a Medical Marijuana Division.

One-time funding - In Section 3 of 2017 Senate Bill No. 2004, the Legislative Assembly identified \$1,834,286 of one-time funding from special funds for a women, infants, and children program computer project (\$1,739,220) and for one-time costs related to establishing a Medical Marijuana Division (\$95,066). In addition, 2017 House Bill No. 1024 included one-time funding of \$1.42 million from special funds received from the Adjutant General for expenses of law enforcement support related to unlawful activity associated with the construction of the Dakota Access Pipeline. This emergency funding was made available beginning with the effective date of the bill through June 30, 2019.

Status/Result

The State Department of Health removed 6 FTE positions agencywide, which were not specifically identified by the Legislative Assembly. Positions removed include 1 FTE office assistant II position, .5 FTE micro lab senior chemist II position, 1 FTE micro lab technician I position, 1 FTE fire safety surveyor II position, 1 FTE administrative assistant II position, .5 FTE chemistry lab senior chemist II position, and 1 FTE research analyst II position. The Deputy State Health Officer position was not filled and the department reorganized to create the Office of the State Epidemiologist and Chief Financial Officer and Chief Operating Officer positions. The Community Health Section was reorganized and renamed the Healthy and Safe Communities Section, which became effective October 1, 2017.

Women, infants, and children program computer project - The State Department of Health has paid \$750 to date for costs associated with the Attorney General's time on the Executive Steering Committee and contract costs to a women, infants, and children agency assisting in the implementation. The department has awarded the quality assurance contract and anticipates release of a request for proposal for the implementation contractor. The federal deadline is October 1, 2020, and the current project charter estimates rollout to be June 2020. The department anticipates continuing project appropriation authority into the next biennium. The project is federally funded and estimated to total \$2,093,775.

Medical marijuana - The State Department of Health has not expended any funds to date related to one-time medical marijuana projects. The department has awarded a contract for the computer system at a cost of \$159,070, which includes the system and training.

Dakota Access Pipeline - Of the \$1.42 million provided, the State Department of Health spent \$876,918 during the 2015-17 biennium and continued \$543,082 into the 2017-19 biennium. The department anticipates spending \$90,099 during the 2017-19 biennium and remaining special fund authority will expire. State Department of Health expenditures related to unlawful activity associated with the construction of the Dakota Access Pipeline totaled \$2.35 million during the 2015-17 biennium and the 2017-19 biennium.

Information technology shared services unification initiatives - During the 2017-18 interim, the Information Technology Department began a shared service unification plan that includes consolidating information technology services, such as desktop support, help desk services, and information technology personnel in the Governor's cabinet of executive branch state agencies.

Emergency medical services funding - The Legislative Assembly provided a total of \$7,721,000, of which \$6,471,000 is from the general fund and \$1,250,000 is from the insurance tax distribution fund, for rural emergency medical services (EMS) grants. Emergency medical services rural assistance grants total \$6,875,000, of which \$5,625,000 is from the general fund and \$1,250,000 is from the insurance tax distribution fund. Emergency medical services training grants total \$846,000 from the general fund. This level of funding represents a 10 percent reduction in funding from the general fund (\$719,000) compared to the original 2015-17 biennium appropriation.

Local public health unit funding - The Legislative Assembly provided a total of \$5.25 million, of which \$3.25 million is from the general fund and \$2 million is from the tobacco prevention and control trust fund for grants to local public health units. The Legislative Assembly adjusted the funding source for grants to local public health units and increased funding by \$1 million, compared to the \$4.25 million provided from the general fund in the original 2015-17 biennium appropriation.

Medical Marijuana Division - In November 2016 voters approved Initiated Statutory Measure No. 5 (North Dakota Compassionate Care Act) relating to medical marijuana and created North Dakota Century Code Chapter 19-24. In 2017 Senate Bill No. 2344, the Legislative Assembly repealed Chapter 19-24 and created and enacted Chapter 19-24.1 to provide for the legalization of

The State Department of Health anticipates 6 FTE positions may be included in the information technology unification project, but the funding impact of any changes is unknown. The Environment Health Section, which will be organized as the Department of Environmental Quality, is still reviewing possible effects of the information technology unification project.

The State Department of Health will distribute the \$846,000 appropriated for training grants based on certification and training. The remaining \$6,875,000 will be distributed under the rural EMS grant program. The department distributed rural EMS grants during the 1st year of the biennium in two phases. Phase I grants, \$2,943,475 in the 1st year of the biennium, were distributed based on a formula that included ambulance run volume data. Phase II grants, \$664,865 in the 1st year of the biennium, were competitive to support EMS systems in areas where the service is critical, but run volume; tax base; distance from other EMS services; or other unique circumstances did not allow the creation of efficient, viable, or sustainable services and included a "hold harmless" provision for certain programs based on committee review. Of the \$6,875,000 made available for the rural EMS grant program, \$3,266,660 remains for Phase III grants to be awarded in the 2nd year of the biennium. A Rural EMS Assistance (REMSA) subcommittee was formed under the Emergency Medical Services Advisory Council to review, with the department, changes to the rural EMS grant program formula for the 2nd year of the biennium. The basis for the Phase III funding formula was developed by the REMSA subcommittee and approved by the Emergency Medical Services Advisory Council and the State Department of Health. Phase III funding will be based on run volume categories utilizing a funding formula considering population, a model budget, and estimated revenues of services within run volume categories.

The department has expended \$376,934 in EMS training grants through May 2018 and \$469,066 is available for EMS training grants during the remainder of the biennium.

Of the \$5.25 million provided for local public health units, the State Department of Health designated \$600,000 for environmental state aid and \$4.65 million for regular state aid. The distribution of the \$4.65 million in state aid included \$6,000 per county with the remainder distributed based on 2016 population estimates. The \$1 million increase in funding was not distributed separately, but was factored into the state aid formula. Of the \$600,000 for environmental state aid, \$10,000 was awarded to Bismarck-Burleigh Public Health and the remaining \$590,000 was distributed equally to eight regions in the state. All payments are made quarterly.

The State Department of Health hired a Medical Marijuana Division Director in February 2017 who retired in December 2017. A new Director was hired in January 2018. In addition, the department hired a Program Director and an administrative assistant in June 2017. The department is in the process of hiring a compassion center program manager/examiner position.

medical marijuana. The bill requires the State Department of Health to establish and implement a medical marijuana program to allow for the production, processing, and sale of marijuana for medical use. The Legislative Assembly, based on the fiscal note for the bill, provided a total of \$1,560,770 and authorized 6 FTE positions to establish a Medical Marijuana Division. The Legislative Assembly provided ongoing funding of \$1,465,704, of which \$723,270 is from the general fund; \$742,434 is from the medical marijuana fund; and one-time funding of \$95,066 is from the medical marijuana fund for costs related to establishing a Medical Marijuana Division. In Section 19-24.1-40, the Legislative Assembly established a medical marijuana fund. The State Department of Health must deposit all fees related to medical marijuana into the fund and must administer the fund. Money in the fund is appropriated to the department on a continuing basis for use in administering the medical marijuana program.

Legislative intent - Newborn screening - In Section 10 of Senate Bill No. 2004, the Legislative Assembly provided legislative intent the State Department of Health's newborn screening program collaborate with the cardiac system of care task force to provide congenital heart defect educational materials and explore data collection and analysis.

United States Department of Justice and Volkswagen Corporation settlement - The Legislative Assembly provided \$2.5 million of special fund authority for grants resulting from a settlement agreement between the United States Department of Justice and the Volkswagen Corporation related to emissions. The State Department of Health has been designated to receive the funds by the Governor's office.

The State Department of Health began receiving revenue in April 2018 with receipt of the manufacturing compassion center applications. The department deposited \$95,000 from 19 applications required to include a \$5,000 nonrefundable fee with their application. In May 2018 the review committee selected two manufacturing facilities, Pure Dakota LLC - Bismarck and GR Vending ND, LLC - Fargo, which will be required to pay an additional \$110,000 registration fee. The draft application form for dispensaries was issued on April 30, 2018. All dispensary applicants will be required to submit a \$5,000 nonrefundable application fee. It is the department's intent to register eight dispensaries, each of which will pay a \$90,000 registration fee. As product nears availability, the department anticipates issuing patient and caregiver cards which will require a \$50 registration fee. Compassion center employees, volunteers, and board member cards will be issued at \$200 per card. State Department of Health revenue is estimated as follows:

- Manufacturers - Application fees totaling \$95,000 and registration fees totaling \$220,000;
- Dispensaries - Application fees (estimate 10 registrants) totaling an estimated \$50,000 and registration fees estimated to total \$720,000; and
- Individual patient/caregiver/compassion center employee/board member registrations - Registration card fees are estimated to total \$170,000.

Through March 2018 Medical Marijuana Division expenses totaled \$276,391 from the general fund, including \$205,693 for salaries and wages and \$70,698 for operating expenses.

The State Department of Health has developed resources related to critical congenital heart disease, added critical congenital heart disease to the newborn screening website, updated protocols and a tip sheet, and provided training.

In October 2017 the environmental mitigation trust was finalized as part of a nationwide settlement. Funding from the trust will be available to all states and is intended to mitigate the negative air quality impacts caused by Volkswagen Corporation's installation and use of emissions testing defeat devices in their vehicles in the United States. These devices violated the federal Clean Air Act and increased air emissions of the pollutant nitrogen oxide. North Dakota's share of the trust will be \$8,125,000. Trust documents allow 10 years to expend the funds. To receive funding, a mitigation plan must be developed to outline the actions the state intends to take to accomplish the goal of reducing nitrogen oxide emissions. The plan must be based on the settlement's list of eligible mitigation actions to reduce nitrogen oxide emissions and provide the greatest air quality benefit for the public. The State Department of Health sought public input on drafting the state's environmental mitigation plan. The department is currently completing work on a

draft of the state's environmental mitigation plan required by the state environmental mitigation trust. Once complete, the draft will be posted on the department's website and will be accompanied by a public comment period prior to finalization and submission to the trustee. The department does not anticipate expending the entire \$2.5 million of special fund authority provided in the current biennium.

Through March 2018 the State Department of Health has spent \$3,684,380, of which \$544,448 is from federal funds and \$3,139,932 is from special funds, for tobacco prevention and control. The department presented the draft statewide tobacco prevention and control plan to the interim Health Services Committee in August 2017. The final plan has been posted on the department's website. The department has contracted with Professional Data Analysts, Inc. to complete an independent review of the plan. Professional Data Analysts, Inc. is currently identifying methodologies for evaluation and will have 1 full year of data to review as of June 30, 2018. The report on the results of the independent review of the tobacco prevention and control plan's effectiveness and implementation will be presented to the interim Health Services Committee.

The State Department of Health spent \$830,790 during the 2015-17 biennium related to legal action against the Environmental Protection Agency, including \$580,790 from the general fund and \$250,000 from the deficiency appropriation from the strategic investment and improvements fund. Through April 20, 2018, the department has spent \$43,703 of the \$500,000 provided from the strategic investment and improvements fund for litigation fees during the 2017-19 biennium.

The State Department of Health has established a Cardiac Ready Community Grant Program Advisory Committee, which has had a few meetings since the program's inception. To date the program has received one grant for \$97,964. The advisory committee is currently reviewing options to administer the grants. The grant agreement provides for the distribution of automated external defibrillator units.

Statewide tobacco prevention and control plan - The Legislative Assembly, in 2017 Senate Bill No. 2024, repealed Chapter 23-42 related to the tobacco prevention and control program and transferred the responsibility for the statewide tobacco prevention and control plan to the State Department of Health. In Senate Bill No. 2004, the Legislative Assembly added 1 FTE position for tobacco prevention and control and increased funding to provide a total tobacco prevention and control appropriation of \$13,646,704, of which \$3,200,000 is from the community health trust fund, \$8,453,333 is from the tobacco prevention and control trust fund, and \$1,993,371 is from federal funds. In Section 16 of Senate Bill No. 2004, the Legislative Assembly required, by July 31, 2017, the State Department of Health to develop a statewide tobacco prevention and control plan consistent with the five components of the Centers for Disease Control and Prevention Best Practices for Comprehensive Tobacco Control Programs. At least once during the 2017-19 biennium, the State Department of Health must provide for an independent review of the tobacco prevention and control plan to evaluate the effectiveness of the plan and its implementation. Any costs related to the independent review are included in the tobacco prevention control line item and may be paid from the tobacco prevention and control trust fund. The department must report the results of the review to the Legislative Management.

Environmental Protection Agency lawsuit - Deficiency appropriation - The Legislative Assembly, in House Bill No. 1024, provided a deficiency appropriation of \$250,000 from the strategic investment and improvements fund to the State Department of Health for additional costs related to ongoing legal actions with the Environmental Protection Agency during the 2015-17 biennium. In addition the Legislative Assembly adjusted the funding source for litigation costs related to the Environmental Protection Agency lawsuit to provide \$500,00 from the strategic investment and improvements fund, instead of the general fund, during the 2017-19 biennium.

Cardiac ready community grant program - The Legislative Assembly, in 2017 House Bill No. 1210, requires the State Department of Health to establish a cardiac ready community grant program and advisory committee and provides a continuing appropriation for gifts, grants, and donations.

Water quality tests - The Legislative Assembly, in 2017 House Bill No. 1409, requires the results of certain water quality tests be reported to the State Department of Health and maintained in a database.

Syringe exchange program - The Legislative Assembly, in 2017 Senate Bill No. 2320, allows the State Department of Health to authorize a qualified entity to operate a syringe exchange program.

Department of Environmental Quality - The Legislative Assembly, in 2017 Senate Bill No. 2327, created the Department of Environmental Quality and transferred duties and responsibilities relating to environmental quality from the State Department of Health to the Department of Environmental Quality. Before July 1, 2019, the State Department of Health must obtain the required approvals from, and amend the necessary agreements with, federal agencies and other public and private entities to ensure the state will continue to meet all primacy requirements.

The State Department of Health has developed the database. No licenses have been issued by the North Dakota Geological Survey for subsurface mineral production operations, so no tests have yet been completed. The testing is required when a license is issued.

The State Department of Health, through the Disease Control Division, has authorized programs at Fargo Cass Public Health and Custer Health to operate a syringe exchange program.

The establishment of the Department of Environmental Quality elevates the responsibility for environmental protection to a cabinet-level agency whose director is appointed by and reports directly to the Governor. The Environmental Health Section of the State Department of Health currently has approximately 174 positions, including engineers, scientists, chemists, microbiologists, and administrative support staff. The Department of Environmental Quality will be overseen by a new 13-member Environmental Review Advisory Board, created through the consolidation of the existing Air Quality Advisory Board and Water Pollution Control Advisory Board. The new board will consist of the State Engineer, State Geologist, Director of the Game and Fish Department, and ten members appointed by the Governor. The board also reserves three positions for representatives of crop agriculture, the livestock industry, and agronomy/soil sciences.

The Environmental Health Section of the State Department of Health is meeting periodically with the Environmental Protection Agency to address all primacy requirements in order to obtain final approval for primacy as the Department of Environmental Quality. State Administrative Rules changes are available for public comment until June 2018. The Administrative Rules changes refer to the agency name change only and, along with changes to the federal register, are necessary for primacy approval by the Environmental Protection Agency. The Environmental Health Section has met with the fiscal and operations sections to plan the transition. Policies and procedures are being reviewed and action plans developed. The department estimates primacy will be approved in December 2018.